

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

MICHAEL ANDRE AZAN,

Plaintiff(s)

vs.

JAMES ERWIN, Warden,

Defendant(s)

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Case Number: 1:02cv434-SJD

District Judge Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Black. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on June 17, 2004 Report and Recommendations (Doc. 14). Subsequently, the plaintiff filed objections to such Report and Recommendations.

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

IT IS ORDERED that the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is hereby DENIED with prejudice.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this order would not be taken in “good faith” and therefore DENIES petitioner leave to appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

A certificate of appealability shall not issue with respect to petitioner’s grounds for relief

alleged in the petition, which this Court has concluded are waived and thus barred from review on procedural grounds, because “jurists of reason would not find it debatable whether this Court is correct in its procedural ruling” under the first prong of the applicable two-part standard enunciated in *Slack v McDaniel*, 529 U.S. 473, 484-485 (2000).

IT IS SO ORDERED.

s/Susan J. Dlott  
Susan J. Dlott  
United States District Judge